

WHEREAS, Plaintiff does not contend that it purchased or used any AFFF products that were designed, distributed, manufactured and/or sold by National Foam that were manufactured in compliance with the U.S. Department of Defense military specifications (“MilSpec”) for use by government entities;

WHEREAS, Plaintiff contends that the only AFFF product that was designed, distributed, manufactured and/or sold by National Foam that caused damage to Plaintiff is Universal Gold;

WHEREAS, Universal Gold was not manufactured or sold as a MilSpec AFFF product;

WHEREAS, Plaintiff has requested that National Foam withdraw its government-contractor affirmative defense in the Action on the basis that Universal Gold is not MilSpec AFFF;

WHEREAS, the parties have met and conferred and, in order to provide for the efficient adjudication of the case, have agreed to the terms as set out below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED that:

1. Plaintiff agrees that it shall not advance any claims against National Foam in the Action related to any products other than Universal Gold.

2. In reliance on Plaintiff's representation in paragraph 1, National Foam agrees to withdraw affirmative defense number 7 from its Answer in this Action, which claims that National Foam is entitled to immunity from suit under the government/military contractor defense.

Dated: January 31, 2023

/s/ Gary Douglas

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was electronically filed with this Court's CM/ECF system on January 31, 2023 and was therefore served automatically on all counsel of record in this matter.

/s/ Keith E. Smith